



**Title 37, Public Safety and Corrections, Part 16,
Office of Violent Sex Offender Management
Texas Administrative Code
Chapter 810, Civil Commitment**

Effective December 30, 2012

STATUTORY AUTHORITY

The amendments are authorized under Health and Safety Code, §841.141, which requires the office to adopt rules consistent with Health and Safety Code, Chapter 841 and which provides the office with the authority to adopt rules consistent with the purposes of the chapter.

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SUBCHAPTER A. CIVIL COMMITMENT GENERAL PROVISIONS.

§810.121. Introduction.

(a) General. The provisions of this chapter govern the procedures relating to the civil commitment of sexually violent predators in the State of Texas and the development of a case management system, which provides appropriate and necessary treatment and supervision.

(b) Construction. This chapter covers definitions, criteria for case managers, treatment providers, and biennial examination experts; guidelines for the supervised housing of sexually violent predators; outpatient treatment plans and standards of care; civil commitment requirements, supervision and tracking services; the exchange and release of information relating to sexually violent predators; commitment review procedures; petitions for release; and immunity from liability for good faith conduct.

(c) History. The legislature finds that a small but extremely dangerous group of sexually violent predators exist and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The legislature finds that the existing involuntary commitment provisions of Health and Safety Code, §571.001 et seq., Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society. The legislature further finds that treatment modalities for sexually

violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. The legislature finds that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state.

§810.122. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--Health and Safety Code, Chapter 841, Civil Commitment of Sexually Violent Predators.

(2) Behavioral abnormality--A congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense to the extent that the person becomes a menace to the health and safety of another person.

(3) Biennial examination expert--A person or persons employed by or under contract with the office to conduct a biennial examination to assess any change in the behavioral abnormality for a person committed under the Act, §841.081.

(4) Case Manager--A person employed by or under contract with the office to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(5) Case Management Team--All professionals involved in the assessment, treatment, supervision, monitoring, residential housing of the client, or other approved professionals. The case manager shall act as the chairperson of the team.

(6) Multidisciplinary Team (MDT)--Members of the Office of Violent Sex Offender Management (two), Council on Sex Offender Treatment (one), Texas Department of Criminal Justice (one), Texas Department of Criminal Justice-Victim Service Division (one), Texas Department of Public Safety (one), and Texas Department of State Health Services-Community Mental Health Division (one). The team assesses whether a person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge; gives notice of its findings to the Texas Department of Criminal Justice or to the Department of State Health Services-Community Mental Health Division; and recommends to either agency that the person be assessed for a behavioral abnormality.

(7) Office--The Office of Violent Sex Offender Management including the Governing Board (Government Code, Chapter 420A).

(8) Predatory Act--An act directed toward individuals, including family members, for the primary purpose of victimization.

(9) Sexually Violent Offense--

(A) an offense under the Penal Code, §§21.02, 21.11(a)(1), 22.011, or 22.021;

(B) an offense under the Penal Code, §20.04(a)(4), if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under the Penal Code, §30.02, if the offense is punishable under subsection (d) of that section and the defendant committed the offense with the intent to commit an offense listed in subparagraph (A) or (B) of this paragraph;

(D) an offense under Penal Code, §19.02 or §19.03, that, during the guilt or innocence phase or the punishment phase for the offense, during the adjudication or disposition of delinquent conduct constituting the offense, or subsequently during a civil commitment proceeding under Health and Safety Code, Chapter 841, Subchapter D, is determined beyond a reasonable doubt to have been based on sexually motivated conduct;

(E) an attempt, conspiracy, or solicitation, as defined by the Penal Code, Chapter 15, to commit an offense listed in subparagraph (A), (B), (C), or (D) of this paragraph;

(F) an offense under prior state law that contains elements substantially similar to the elements of an offense listed in subparagraph (A), (B), (C), (D), or (E) of this paragraph; or

(G) an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in subparagraph (A), (B), (C), (D), or (E) of this paragraph.

(10) Sexually Violent Predator (SVP)--A person is a sexually violent predator for the purpose of this chapter if the person: is a repeat sexually violent offender; and suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

SUBCHAPTER B. CIVIL COMMITMENT.

§810.151. Administration of the Act. The Office of Violent Sex Offender Management (office) is responsible for providing appropriate and necessary treatment and supervision through the case management system. The office shall hire program specialists and/or contract for the services of case managers, treatment providers, global positioning tracking providers, biennial examination experts, transportation providers, and residential housing providers. The office by rule shall administer this chapter. Rules adopted by the office under this section must be consistent with the purposes of this chapter. The office by rule shall develop standards of care and case management for persons committed under this chapter.

§810.153. Outpatient Treatment and Supervision Program. The office by rule shall develop standards of care and case management for persons committed under this chapter.

(1) The office shall approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in an amount not to exceed \$10,000 for providing the required treatment.

(2) The case manager shall provide supervision to the person. The provision of supervision shall include a tracking service and, if required by court order, supervised housing.

(3) The office shall enter into appropriate memoranda of understanding with the Texas Department of Public Safety for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

(4) The office shall enter into appropriate memoranda of understanding for any necessary supervised housing. The office shall reimburse the applicable provider for housing costs under this section. The committed person may not be housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action.

(5) The case manager shall coordinate the outpatient treatment and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision. The case manager shall make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters. The case manager shall provide a report to the office, semiannually or more frequently as necessary, which must include: any known change in the person's status that affects proper treatment and supervision; and any recommendations made to the judge.

SUBCHAPTER C. CIVIL COMMITMENT REVIEW.

§810.211. Biennial Examination.

(a) A person committed under Health and Safety Code, §841.081, shall receive a biennial examination. The office shall contract for an expert to perform the examination.

(b) In preparation for a judicial review conducted under Health and Safety Code, §841.102, the case manager shall provide a report of the biennial examination to the judge. The report must include consideration of whether to modify a requirement imposed on the person under this chapter and whether to release the person from all requirements imposed on the person under this chapter. The case manager shall provide a copy of the report to the office.

SUBCHAPTER E. MISCELLANEOUS PROVISIONS.

§810.271. Release and Exchange of Information. To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making an assessment or determination under this chapter.

(1) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to the case manager.

(2) On the written request of any attorney for another state or for a political subdivision in another state, the Texas Department of Criminal Justice, the office, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state shall release to the attorney any available information relating to a person that is sought in connection with an attempt to civilly commit the person as a sexually violent predator in another state.

(3) To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator, the Texas Department of Criminal Justice, the office, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state may exchange any available information relating to the person.

(4) Information subject to release or exchange under this section includes information relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

(5) Personal victim information including a home address, home telephone number, and social security number that identifies the victim(s) of a person subject to a civil commitment proceeding under this Act is privileged from discovery by that person.

§810.272. Office Appointment of Multidisciplinary Members. The office shall appoint members of the office and alternates, to serve as member(s) of the Multidisciplinary Team (team) as defined in the Health and Safety Code, §841.022. The office member(s) or designee(s) who serve on the team shall keep the office informed of the actions taken by the team by providing the office's Executive Director with periodic reports as required.

§810.273. Cost of Tracking Service. Notwithstanding Health and Safety Code, §841.146(c), a civilly committed person who is not indigent is responsible for the cost of the tracking service

required by Health and Safety Code, §841.082, and monthly shall pay to the office the amount that the office determines will be necessary to defray the cost of operating the service with respect to the person during the subsequent month. The office immediately shall transfer the money to the appropriate service provider.

SUBCHAPTER F. CRIMINAL BACKGROUND CHECK OF POTENTIAL EMPLOYEES.

§810.281. Access to Criminal History Records. The office is authorized to obtain information from the Texas Department of Public Safety or the Federal Bureau of Investigation about a conviction or deferred adjudication that relates to an applicant seeking employment with the office. The office is authorized to obtain a criminal history record from any law enforcement agencies. The criminal history record information received under this section is for the exclusive use of the office and is privileged and confidential. The criminal history record information shall not be released or otherwise disclosed to any person or agency except on court order or with the written consent of the applicant.

§810.282. Records. All other records of the office that are not made confidential by other law are open to inspection by the public during regular office hours. The content of the criminal background checks on each potential applicant are not public records and are confidential. Unless expressed in writing by the chairperson of the office, the executive director and the executive director's designee are the only staff authorized to have daily access to the criminal history records. These records will be maintained in separate files.

§810.283. Destruction of Criminal History Records. The office shall destroy conviction/ adjudication information relating to a person after the office makes a decision on the eligibility of the applicant. The office shall destroy the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency. In the event that information is collected online, all files created will be destroyed in the aforementioned timeframe.